AMENDED IN SENATE MAY 25, 2004

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 1431

Introduced by Assembly Member Frommer

February 21, 2003

An act to amend Section 1345 of the Health and Safety Code, and to amend Section 1759 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1431, as amended, Frommer. Insurance administrators.

Existing law provides for the regulation and licensure of insurers by the Insurance Commissioner. Existing law defines the term ''administrator'' to mean a person who collects any charge or premium from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverages and annuities.

This bill would revise the definition of ''administrator'' to include ~~an independent practice association that adjusts or settles claims, and~~ an organization that adjusts or settles claims from *certain* independent practice association member and nonmember providers. The bill would exclude from the definition of ''administrator'' certain persons and entities that are subject to the laws regulating health care service plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, sets forth certain provisions regarding independent practice associations as they relate to health care service plans.

This bill would define an independent practice association, *individual practice association, or IPA* to be ~~an organization of providers~~ *a provider organization* that contracts with a health care service plan to deliver health care services to plan enrollees for a capitation, shared-risk, or fee-for-service payment from the health plan and that is responsible to pay plan enrollee claims submitted to it from both member and nonmember providers. *The bill would exclude a provider organization from this definition if its contract with a plan meets specified criteria.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) ''Advertisement'' means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) ''Basic health care services'' means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance and ambulance transport services and out-of-area coverage. ''Basic health care services'' includes ambulance and ambulance transport services provided through the ''911'' emergency response system.

(7) Hospice care pursuant to Section 1368.2.

(c) ''Enrollee'' means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) ''Evidence of coverage'' means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) ‘‘Group contract’’ means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) ‘‘Health care service plan’’ or ‘‘specialized health care service plan’’ means either of the following:

(1) Any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.

(2) Any person, whether located within or outside of this state, who solicits or contracts with a subscriber or enrollee in this state to pay for or reimburse any part of the cost of, or who undertakes to arrange or arranges for, the provision of health care services that are to be provided wholly or in part in a foreign country in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.

(g) ‘‘Independent practice ~~association’’~~ *association,” “individual practice association,”* or ‘‘IPA’’ means ~~an organization of providers~~ *a provider organization* that contracts with a health care service plan to deliver health care services or to plan enrollees for a capitation, shared-risk, or fee-for-service payment from the health plan, and is responsible to pay plan enrollee claims submitted to the IPA from both member and nonmember providers. *“IPA” does not include a provider organization if its contract with a health care service plan meets either of the requirements set forth in paragraph (2) of subdivision (g) of Section 1375.4.*

(h) ‘‘License’’ means, and ‘‘licensed’’ refers to, a license as a plan pursuant to Section 1353.

(i) ‘‘Out-of-area coverage,’’ for purposes of paragraph (6) of subdivision (b), means coverage while an enrollee is anywhere outside the service area of the plan, and shall also include coverage for urgently needed services to prevent serious deterioration of an enrollee’s health resulting from unforeseen illness or injury for which treatment cannot be delayed until the enrollee returns to the plan’s service area.

(j) ‘‘Provider’’ means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(k) ''Person'' means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, corporation, limited liability company, public agency, or political subdivision of the state.

(*l*) ''Service area'' means a geographical area designated by the plan within which a plan shall provide health care services.

(m) ''Solicitation'' means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(n) ''Solicitor'' means any person who engages in the acts defined in subdivision (*l*).

(o) ''Solicitor firm'' means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (*l*).

(p) ''Specialized health care service plan contract'' means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.

(q) ''Subscriber'' means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(r) Unless the context indicates otherwise, ''plan'' refers to health care service plans and specialized health care service plans.

(s) ''Plan contract'' means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(t) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean those financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject

to any specific requirement imposed by this chapter or by the director.

SEC. 2. Section 1759 of the Insurance Code is amended to read:

1759. (a) For purposes of this chapter, ''administrator'' means any person who collects any charge or premium from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities or coverage described in Section 740. Effective January 1, 2005, ~~the following entities shall also be considered administrators:~~

~~(1) An independent practice association, as defined in Section 1345 of the Health and Safety Code, that adjusts or settles claims.~~

~~(2) An~~ *an* organization that adjusts or settles claims from both independent practice association member providers and nonmember providers *shall also be considered an administrator. As used in this section, "independent practice association" has the meaning set forth in Section 1345 of the Health and Safety Code.*

(b) The term ''administrator'' shall not include any of the following:

(1) An employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of that employer.

(2) A union on behalf of its members.

(3) An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or prepaid hospital or health care service plan (including their sales representatives licensed in this state when engaged in the performance of their duties).

(4) A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

(5) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

(6) A trust, its trustees, agents, and employees acting thereunder, established in conformity with 29 U.S.C. Sec. 186.

(7) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees, and employees acting thereunder, or a custodian, its agents and employees acting

pursuant to a custodian account which meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A bank, credit union or other financial institution which is subject to supervision or examination by federal or state regulatory authorities.

(9) A company which advances for and collects any premium or charge from its credit card holders who have authorized it to do so, provided the company does not adjust or settle claims.

(10) A person who adjusts or settles claims in the normal course of his or her practice or employment as an attorney at law, and who does not collect any charge or premium in connection with life or health insurance coverage or annuities.

(11) An adjuster licensed by the Insurance Commissioner when engaged in the performance of his or her duties.

(12) A nonprofit agricultural association.

(13) Any person or entity that is not specified in subdivision (a) and that is subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

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